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E.O. 12958: DECL: 03/20/2019
TAGS: ECON PGOV PREL ETRD EINV VE
SUBJECT: VENEZUELA: NATIONALIZED CEMENT COMPANIES GIVE UP
PAYMENT HOPES

REF: A. 2008 CARACAS 1200
¶B. 2008 CARACAS 1747
¶C. 2008 CARACAS 1170
¶D. 2008 CARACAS 1758
¶E. CARACAS 307
¶F. 2008 CARACAS 1209
¶G. CARACAS 351

Classified By: Economic Counselor Darnall Steuart for reasons 1.4
(b) and (d).

¶1. (C) SUMMARY: Former Executive Director of Holcim Venezuela Louis Beauchemin (protect throughout) told EconOff March 19 that Holcim would seek international arbitration after giving up hope of payment for its cement operations, nationalized in August 2008. Holcim, the world's second largest cement maker, publicly announced on March 23 that it would begin legal proceedings against Venezuela. Although in public the government continues to claim it will pay, privately a Ministry of Energy and Petroleum (MEP) official told Beauchemin that the MEP has been waiting on a decision from Chavez for months. After making a pre-election "show" of nationalizing the cement industry, Chavez's attention has wandered to other sectors (Ref A). Nationalized cement companies' operations are already suffering from poor government management and an inability to obtain dollars at the official exchange rate. END SUMMARY.

NATIONALIZATION WITHOUT COMPENSATION EQUALS EXPROPRIATION

¶2. (C) Following the Bolivarian Republic of Venezuela's (GBRV) positive statements to the press prior to the February 15 referendum eliminating term limits, Beauchemin told Econoff on February 11 that he was cautiously optimistic Holcim would be paid. MEP Minister and state oil company (PDVSA) President Rafael Ramirez, had told the Swiss Ambassador at that time that his ministry was still evaluating the plants but assured the ambassador that Holcim could expect prompt payment. In a hallway conversation on March 17, however, a MEP official told Beauchemin that the ministry had submitted its final report on Holcim and Lafarge "months ago" and that the evaluation stage was long over. We have been waiting on a decision from President Chavez for months now, the official conceded.

¶3. (C) Beauchemin told Econoff March 19 that his company has

now abandoned all hope for payment and on March 18 submitted its third and final "trigger letter" to the MEP prior to filing its case in the International Center for Settlement of Investment Disputes (ICSID). On March 23, a company spokesman announced that it had started legal proceedings against Venezuela. In a previous conversation Beauchemin told Econoff Holcim would seek over USD 700 million in compensation (Ref B). Holcim is avoiding any action that ICSID arbitrators could interpret as hostile, such as pulling the Holcim software essential to plant operations. He added that his contacts in French-owned cement company Lafarge are just starting their series of "trigger letters", and thus does not plan to file with the ICSID until this summer.

¶4. (C) In retrospect, Beauchemin opined, it would have been better in some respects to follow the CEMEX example and let the National Guard occupy the Holcim plant rather than agree to work with a government that had no intention to pay (Ref C). He said the televised National Guard occupation will likely strengthen the CEMEX case in the ICSID. Beauchemin added that Holcim's team of lawyers believe the company would be more likely to get paid if it is the first of the three cement companies to reach an ICSID settlement. The company is concerned the GBRV will be unable to come up with the roughly USD 1.6 billion it may owe for all three companies.

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COMPANY OPERATIONS SUFFERING UNDER GOVERNMENT MANAGEMENT
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¶5. (C) Beauchemin noted that the GBRV's nationalization of the cement industry had the surprising effect of dramatically

increasing Holcim's share of the market. He said CEMEX and Lafarge production has dropped substantially, as most of their plant managers have quit or been removed. Holcim's plant staff remained, which has allowed it to maintain its production levels. Unfortunately, the GBRV failed, as he anticipated they would, to conduct essential, annual maintenance in early 2009. He is unsure how long the GBRV will be able to keep production at current levels due to lack of maintenance.

¶6. (C) Beauchemin lamented that while skilled plant operators remain, there is no longer anyone at the helm of the company. There is still, theoretically, a five member transition team leading the company formerly know as Holcim (the new name has yet to be determined.) He said that three of the five members of the team were career politicians who asked to move on to other jobs. In early February, the GBRV replaced them with "even more radical Chavistas with no experience in the industry." Although the MEP added all three to the payroll, they have yet to report for work.

¶7. (C) Additionally, the nationalized companies in the industry face a surprising problem with the currency control regime. Along with the majority of privately owned companies, they are unable to obtain dollars at the official exchange rate (Ref D). According to Beauchemin, government-owned companies are not allowed to obtain dollars using the "parallel" or non-official exchange rate (Ref E). Beauchemin explained that it would create a scandal if it came out that even government-owned companies cannot get dollars at the official exchange rate of 2.15 Bolivars to 1 USD for essential production inputs. He said that because Venezuelan exchange control agency (CADIVI) is not granting the nationalized cement companies' requests for dollars, the companies are secretly contracting with third parties who give them dollars at "bad rates" such as 8 Bolivars to 1 USD. The chosen third parties give kickbacks to ensure the continuation of their relationship with new cement company managers.

COMMENT

¶8. (C) Chavez focused on multi-national cement companies to prove his dedication to solving the housing crisis (Ref F) in the run-up to the state and local elections in November. Post-election, he has shown no interest in the industry and appears to have little incentive to make good on the payment agreements. It is in the GBRV's interest to let the resulting international arbitration cases drag on for years while the government reaps any profits from the nationalized operations. In addition to valid concerns of nationalization (Ref G), most companies face increasingly severe problems with obtaining dollars at the official exchange rate. If government-controlled companies are not immune to problems with the currency control regime, there is little hope for US companies awaiting billions of dollars from CADIVI.

CAULFIELD